

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DAVID BRADFORD POSTELLE,)
)
Petitioner,)
)
v.) **Case No. CIV-11-425-R**
)
ROBERT EZELL, Warden,)
)
Respondent.)

O R D E R

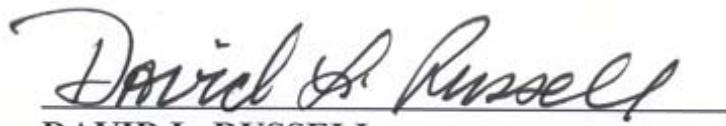
Before the Court are the Report and Recommendation of United States Magistrate Judge Doyle W. Argo entered November 16, 2011 [Doc. No. 12] and Petitioner's objection thereto filed November 28, 2011 [Doc. No. 13]. The Court reviews the Report and Recommendation *de novo* in light of Petitioner's "partial" objection.

Respondent timely complied with the April 20, 2011 Order of the Magistrate Judge [Doc. No. 6] by filing his response to the petition for a writ of habeas corpus on April 5, 2011 [Doc. No. 8]. Accordingly, the Magistrate Judge correctly recommended denial of Petitioner's motion for summary judgment.

Respondent's response to the petition contains a certificate of service showing that a copy of the response was served by mail on the Petitioner. According to Petitioner's objection and affidavit attached thereto, however, Petitioner never received a copy of the response. Therefore, Respondent is ORDERED to immediately mail another copy of its response [Doc. No. 8] to Petitioner. Petitioner is GRANTED leave to file a reply to the response on or before December 16, 2011.

In accordance with the foregoing, the Report and Recommendation of the Magistrate Judge [Doc. No. 12] is ADOPTED and Petitioner's motion for summary judgment [Doc. No. 11] is DENIED.

IT IS SO ORDERED this 29th day of November, 2011.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE